
BZA-1719
JERRY D. O'BRYAN & JAN E. O'BRYAN
Variance

STAFF REPORT
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REQUEST MADE, PROPOSED USE, LOCATION:

Petitioner, represented by Dan Teder with Reiling, Teder & Schrier, is requesting a parking variance to allow 36 spaces instead of the required 48 spaces for a restaurant to be built on property currently occupied by the Hairman and the former carwash in the Levee area. The site is identified by two addresses: 119 Howard Avenue and 142 N. River Road, West Lafayette, Wabash 20(SW)23-4.

AREA ZONING PATTERNS:

The site is zoned CBW, Central Business District - West Lafayette, and FP, Flood Plain. The FP zoning is a remnant from a larger area that existed prior to several successful flood certifications, which were submitted by individual landowners. Most of the remaining FP zoning still exists simply because the properties have not been certified out by landowners and in many cases, it is not necessary until the site is redeveloped. Many of the surrounding properties are also zoned CBW, with planned development zoning to the east and south.

The most recent parking variance in this area was for the new Spotted Dog (formerly Pete's) restaurant on the east side of Howard Avenue (BZA-1711). This case was ultimately withdrawn when petitioner and neighboring property owners recorded a parking agreement. A request to reduce required parking for an apartment building at the intersection of Wiggins and Salisbury was denied in 1998 and again in 1999 when the same petitioner attempted a second variance for the same property (BZA-1476 & -1504).

AREA LAND USE PATTERNS:

The site will be redeveloped using the existing footprint of the carwash and the existing Hairman building, which would be remodeled, to construct a new restaurant. Surrounding the site are a mix of old and new commercial uses. To the east are three restaurants: El Rodeo; China Buffet; and the new Spotted Dog. Further east is a large parking lot associated with Levee Plaza and a now defunct miniature golf course. Directly south of the site is the Econo Lodge and Puccini's restaurant. Other uses in this area include Bruno's, Goodyear Tire, a laundromat and the Village Bottle Shop and several fraternities are on the west of North River Road,.

In addition to the service establishments and restaurants surrounding the site, there are a significant number of residential units which contribute to the pedestrian nature of the area:

- 240 units of varying size are located to the north of this site in Waterfront Condominiums;
- 216 apartments in River Market at the southeast corner of State Street & South River Road;
- 92 one and two bedroom units in Wabash Landing apartment complex;
- 90 bedrooms located in State Street Towers Planned Development at the southwest corner of State Street & South River Road.

While traditionally this area was auto-intensive, there is an ongoing trend to add residential units in the joint Lafayette-West Lafayette downtown area. This effort has been helped by the new apartments that have been created through the planned development process as well as the existing fraternities.

TRAFFIC AND TRANSPORTATION:

The parking standard for restaurants and bars is one space per 100 square feet of gross floor area. Petitioners propose a 3745 square foot restaurant with a 1000 square foot outdoor seating area, thus requiring 48 parking spaces.

Petitioners' site plan shows 36 parking spaces and they intend to enter into an agreement with Wabash Landing for 12 additional parking spaces. Generally, such an agreement would negate the need for a variance; however, in this case the parking spaces are more than 300' from the site and thus, do not comply with ordinance requirements. The petition for this case states that petitioners would terminate or decrease the size of the outdoor seating area if the parking agreement is not renewed or if fewer spaces are obtained.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:

City sewer and Indiana-American Water will serve the new restaurant.

STAFF COMMENTS:

Petitioners' site consists of parts of lots from two additions: Chauncey's Plat of Bottom Lands and Rosa Addition. The Hairman beauty shop and the carwash have long occupied this site, which will be redeveloped. The Levee area has been the subject of much change over the last several years with the redevelopment of the old Sears site into Wabash Landing. Recently, other restaurants have opened at the intersection of Howard Avenue and Brown Street in the CBW zone on larger lots and many new apartments were added through the planned development process.

Petitioners' site falls in two zones: CBW and FP. Staff supplied the base flood elevation (BFE) for this site to petitioners' representative and as a result C & S Engineering surveyed the site. The survey found, surprisingly enough, that a corner of the property was actually below the BFE and therefore, that area technically lies in the floodplain. Common sense would lead one to believe that this is actually a dip in the land and that the property isn't susceptible to flooding. However, the quickest solution at the time of the staff report was to certify that the proposed building complies with setback and flood protection grade requirements; this information has been provided to staff. Incidentally, parking is allowed in the FP zone.

Petitioners would like to construct a 3745 square foot building with a 1000 square foot outdoor seating area, thus requiring 48 parking spaces. The outdoor seating area requires 10 parking spaces by itself, even though this portion of the site will only be used seasonally. Petitioners intend to enter into an agreement with Wabash Landing to use 12 parking spaces in the garage; the spaces would be used by the restaurant's employees rather than customers. Although the agreement would be reviewed by and receive approval from West Lafayette, it would not meet ordinance requirements because the spaces would be located more than 300' from petitioners' site and thus cannot be counted within the context of the ordinance.

This case is very similar to a recent variance request for property on the east side of Howard Avenue (BZA-1717) that was eventually withdrawn in favor of a complying off-site parking agreement. In that case, staff outlined an argument to support the request based on planning principals and what it feels is a deficiency in the CBW zone. This zone is intended to provide

areas for businesses which experience significant pedestrian traffic; its parking standard does not reflect this element. In comparison, Lafayette's downtown zone, CB, does not require parking for restaurants, but does require parking for hotels and places of public assembly. Another way to look at this zone and its parking standards is to compare it with the NBU zone. That zone recognizes the smaller lots found in urban areas and only requires new businesses to provide 60% of the required parking. Petitioners are providing 75% of the required parking and if the spaces in the parking garage could be counted, they would be providing 100% of the required parking.

Staff feels that this request is supportable because the site is located in an urban area and because the parking standard for this zoning district does not recognize pedestrian foot traffic. Additionally, petitioners have entered into an off-site parking agreement for their employees. From a planning perspective businesses located in a "downtown - pedestrian area" should not have the same parking standard as businesses that locate in areas that can only be easily reached by cars. With that line of thought, staff finds that the ordinance does work a hardship in this case. The cooperation between the management of Wabash Landing and petitioners could signal a new era where property owners in this high traffic area cooperate and help provide solutions that deter from the "sea of parking" mentality.

Adding to this site's pedestrian nature, this area has been included in the Lafayette-West Lafayette "Hilltop-to-Hilltop" area (Five Points in Lafayette to the Chauncey Village in West Lafayette), the purpose of which is to affirm and strengthen an image of the downtown as the center of both cities and providing easy access to and from both cities to pedestrians and transit riders. While this area may have been more traditionally auto-oriented than other locations within "Hilltop-to-Hilltop," the pedestrian element of this site must not be overlooked. In this instance, planning can be used as a tool to encourage folks to use public transportation or to walk to their destinations while creating less impervious surface.

Regarding the ballot items:

1. The Area Plan Commission at its May 17th meeting determined that the variance requested **IS NOT** a use variance.

And it is staff's opinion that:

2. Granting this variance **WILL NOT** be injurious to the public health, safety, and general welfare of the community. There is adequate parking in the surrounding area, including the spaces reserved in the Wabash Landing parking garage for this use. This area has become more pedestrian in nature and customers going to businesses all across the Levee and Wabash Landing can easily access locations on foot or by CityBus.
3. Use and value of the area adjacent to the property included in the variance request **WILL NOT** be affected in a substantially adverse manner because employees will use the additional spaces rented from the Wabash Landing parking garage and the number of spaces on the property should be sufficient for restaurant patrons and there is significant pedestrian and public transit in the area.
4. The terms of the zoning ordinance are being applied to a situation that **IS** common to other properties in the same zoning district. This area of West Lafayette is notorious for its difficulties with fulfilling parking requirements and many of the businesses in this zoning district, with the exception of the planned developments, are on smaller platted lots.

5. Strict application of the terms of the zoning ordinance **WILL** result in an unusual or unnecessary hardship as defined in the zoning ordinance because the CBW zone does not recognize the pedestrian element of the district.

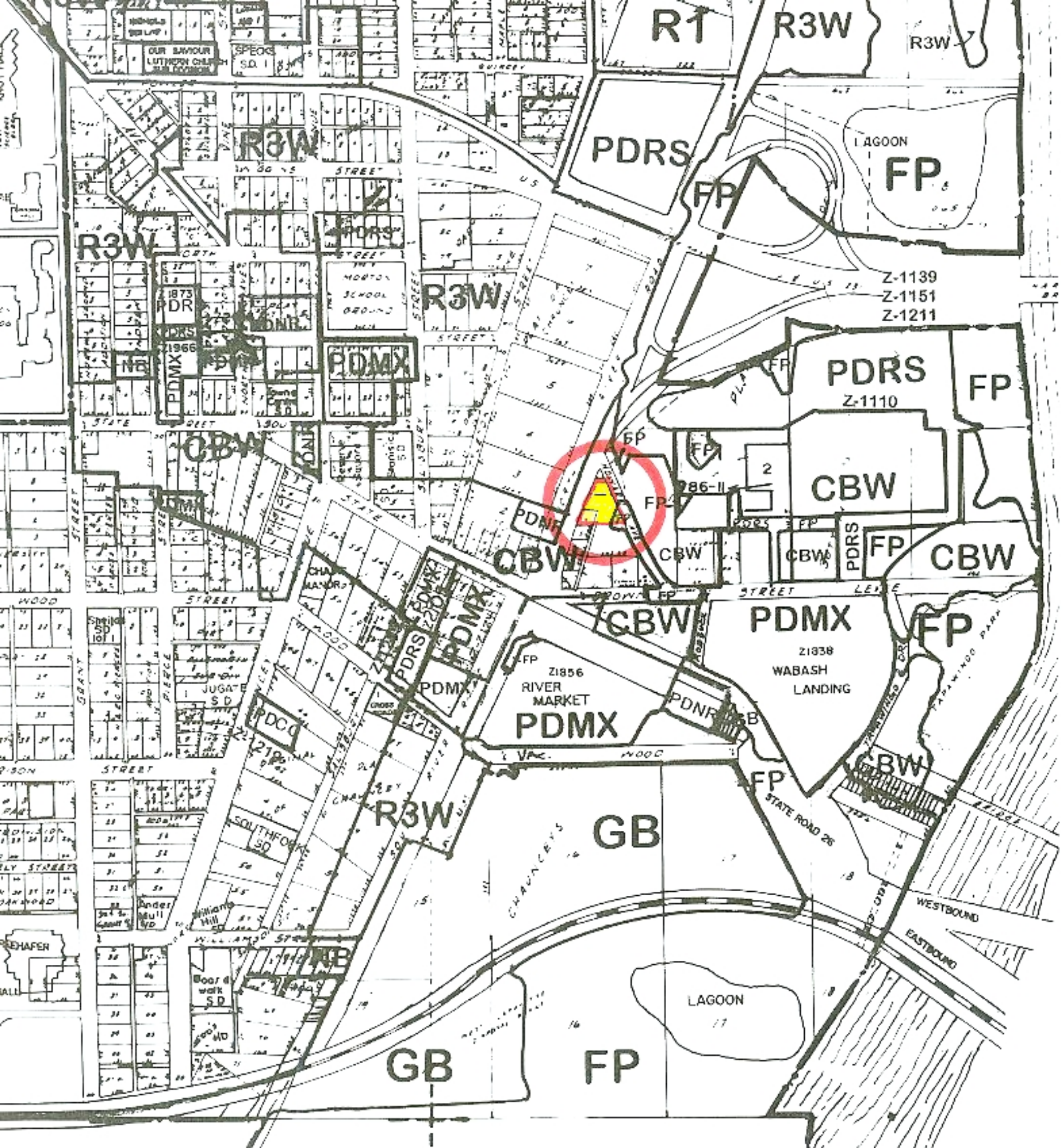
Note: Questions 5a. and 5b. need only be answered if a hardship is found in Question 5 above.

5a. The hardship involved **IS NOT** self-imposed or solely based on a perceived reduction of or restriction on economic gain. The intent of the CBW zone is to provide areas for businesses that experience high pedestrian traffic. It is counterintuitive to require a suburban parking standard in a downtown central business district which doesn't support an urban design.

5b. The variance sought **DOES** provide only the minimum relief needed to alleviate the hardship because petitioners have entered into a parking agreement with the Wabash Landing parking garage and have added language to that agreement that states that the outdoor seating area will be terminated or decreased in size if the agreement becomes void or if the number of spaces is decreased.

STAFF RECOMMENDATION:

Approval





DATE: 03/03/2017